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ABSTRACT

This report summarizes state legislative activity in 1992 and 1993 pertaining to Native American issues. An overview of each year is followed by state-by-state summaries. In 1993, of 238 bills, resolutions, and memorials introduced, 116 were enacted, with 31 pending. During 1993, education issues were important and included the integration of American Indian history, language, and culture into school curriculum; college scholarships; and tuition issues. Of 291 bills introduced in 1992, 106 were enacted. Issues included authority for intergovernmental agreements; burial protection; child welfare; cultural and historical preservation; designation of Native American days or weeks; economic development; Native American education; federal and state recognition of Indian tribes; tribal gaming; jurisdiction; natural resources allocation and protection of hunting, fishing, timber, and water rights; religious freedom; sovereignty; taxation; tribal courts; and waste disposal. (LP)

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State-Tribal Legislation

1992 and 1993 Summaries

By

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- To improve the quality and effectiveness of state legislatures,
- To foster interstate communication and cooperation,
- To ensure states a strong, cohesive voice in the federal system.

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State-Tribal Legislation: 1992 and 1993 Summaries

In 1993, 238 bills, resolutions and memorials were introduced into the state legislatures concerning state-tribal issues, and 116 were enacted, with 31 pending. Out of 291 bills introduced in 1992, 106 were enacted. The National Conference of State Legislatures has tracked state-tribal relations in 1991, 1992 and 1993. The major topics have been: authority for intergovernmental agreements, burial protection, child welfare, cultural and historical preservation, designation of Native American days or weeks, economic development, education, federal and state recognition of certain Indian tribes, gambling, jurisdiction, natural resources allocation and protection of hunting, fishing, timber, and water rights, religious freedom, sovereignty, taxation, tribal courts and waste disposal. These issues and an analysis of state-tribal relations are the subject of a forthcoming book by the National Conferences of State Legislatures' State-Tribal Relations Task Force.

State legislatures are an increasingly important forum for the discussion and resolution of state-tribal disputes as shown by the steady growth in enacted bills, from 80 in 1991 to 116 in 1993. Reasons for this trend are fourfold. First, there are more American Indians, Native Alaskans and Native Hawaiians being elected to the state legislatures. Second, Indian tribes have been given the authority to implement federal regulatory programs similar to those of states, causing re-evaluation of the relationship between tribal programs and state programs. Third, state policymakers are becoming more aware of the importance of tribal issues within the states. Finally, Indian tribes and states are more frequently opting for negotiated settlement of disputes rather than costly and time-consuming resolution through the judicial system.

States and Indian tribes approach mutual concerns in something of a legal wilderness. Though case law is being built on a regular basis, a definitive and workable doctrine on state-tribal relations is not found in any state or tribal constitution, nor in the U.S. Constitution. Frank Pommersheim, professor of law at the University of South Dakota draws the conclusion that the lack of a readily applicable doctrine yields the potential for "creative free-play and mutual governmental respect and advancement" between states and tribes; however, this lack of a definitive statement has often led to "acrimonious enmity between the tribes and the states." Much of the acrimony has been carried into the courts. State political processes are alternatives to the judicial system for the resolution of conflicting state-tribal interests.

This report summarizes state legislative activity in 1992 and 1993, starting with 1993. An overview of each year is followed by state-by-state summaries.

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1993 Summary

Gambling was the principal state-tribal issue in 1993. It was discussed in Arizona, California, Idaho, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Nebraska, Nevada, New Mexico, New York, Oklahoma, Oregon and Wisconsin. Many states requested the U.S. Congress and the president to review the constitutionality of the Indian Gaming Regulatory Act of 1988. States also considered authorizing compact negotiation and execution by the governor as well as the ratification of state-tribal gaming compacts. Many states introduced legislation restricting the duration of these compacts.

Education garnered as much attention as gambling in Arizona, California, Colorado, Hawaii, Michigan, Minnesota, Montana, Nevada, New Mexico, North Dakota, South Dakota, Washington and Wisconsin. These measures included the implementation of American Indian history, language and culture into school curriculum; college scholarships; and tuition issues.

Indian affairs offices and commissions were renamed, created, had duties revised or were considered as permanent committees of legislatures in Florida, Idaho, Louisiana, Maryland, Mississippi, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, Tennessee and Wyoming.

Natural resources protection and allocation were considered in Arizona, Hawaii, Maine, Minnesota, New Mexico, New York, Oregon and Washington.

Protection and identification procedures for burial grounds and funerary objects received attention in Alabama, California, Maryland, Minnesota, Nevada, New Mexico, New York, Oregon, Pennsylvania and Utah. Many states debated severity of penalties for infringement on burial sites or for the sale of objects recovered from burial sites.

Taxation was considered in Nevada, New Mexico, New York, North Dakota, Oregon and South Dakota. A bill in the Kansas legislature was defeated that would have ceded taxing jurisdiction over Indian tribes, and Montana considered special taxation of coal that was produced by an Indian tribe.

The issue of tribal sovereignty was considered in Alabama, Georgia, Hawaii, Louisiana, New Mexico, New York, Rhode Island, South Carolina and Vermont. Public education about sovereignty and investigations into the sovereignty of tribes was debated. An Alabama resolution clarifying, defining and reaffirming its sovereign relationship with the Choctaw Indians was not passed. This resolution was defeated in the 1992 session as well.

Arizona, New Mexico and Wisconsin debated the appropriateness of American Indian nicknames and logos.

Hawaii with 72 bills and resolutions and New Mexico with 43 comprised the bulk of legislation introduced into state legislatures. Much of the legislation in Hawaii focused on addressing past treatment of Native Hawaiians and fashioning present-day agreements to restore the sovereignty of Native Hawaiians. New Mexico passed numerous "nuts and bolts" bills dealing with specific concerns like solid waste management, religious freedom and cross-deputization.

American Indians were newly elected to the legislature in the states of Maine, North Carolina, New Mexico and South Dakota. Presently, 11 indigenous Hawaiians serve in the Hawaii Legislature.

As Pommersheim has noted, "tribal-state relations have foundered conceptually, politically and economically from the earliest days of the republic." But the manifold problems that exist are not intractable. An increasingly important arena for the reconciliation of state-tribal issues is the legislatures of the states. A state-by-state analysis of bills follows.

State Legislation Passed in 1993

Alabama

The three bills introduced into the Alabama legislature concerning American Indian issues did not pass. The first reaffirmed the sovereign relationship between the state of Alabama and the Choctaw Indians. The second created the Alabama Indian Housing Authority and the third increased the penalty for desecration of Indian burial sites to a Class C felony.

Alaska

Two bills were held over for the next session in the Senate Judiciary Committee. The first bill allowed the reinstatement of involuntarily dissolved Native corporations. The second related to state and local taxation as affected by the Alaskan Native Corporations Settlement Act. Senate Bill 20, a duplicate of the first bill was held over for the next session in the Senate Committee on Regional Community Affairs. One resolution and committee substitute bill were passed.

CSHB 217—Allows minors in the custody of the state that are members of a Native Corporation to become entitled to receive dividends or other distributions resulting from ownership or stock in a Native corporation. Signed by the governor on July 6, 1993.

HJR 25—Requests the United States Coast Guard not to require alterations of a vessel or equipment of a vessel used in the Aleutian trade that would disrupt essential freight service to the Aleutian Islands. Signed by governor on March 10, 1993.

Arizona

Seven of nine bills failed to pass as well as one House memorial and House concurrent resolution. In the Appropriations Committee, two pieces of legislation died. The first clarified the responsibilities of the Office of Indian Affairs, and the second would have funded Indian programs through the Department of Economic Security. A House Memorial asking the United States government to reopen the Navajo-Hopi land dispute negotiations died in the Judiciary Committee. The last two House bills dealt with the Arizona Racing Department and both died in committee. The first allowed for the nomination of one American Indian to the Arizona Racing Commission, and the second authorized the Arizona Department of Racing to oversee the implementation of compacts for Indian lands. In the House Committee on Commerce, a bill limiting the governor's authority to execute tribal-state gambling died as did a resolution requesting clarification of the Indian Gaming Regulatory Act. A bill setting a sunset date for tribal-state compacts did not pass the Senate.

Two Senate bills, one House bill and a House resolution failed to pass in the special legislative session. HB 2002 would have allowed the governor to negotiate and execute tribal-state gaming compacts. A House concurrent resolution requested the U.S. Congress to revise and clarify the Indian Gaming Regulatory Act. Senate Bill 1001 was a duplicate of HB 2002 and SB 1005 set a duration limit and voter approval renewal on state-tribal gaming compacts. The following two pieces of legislation were enacted.

HB 2016—Authorizes the superintendent of public instruction to enter into compacts with adjacent states containing federally recognized Indian tribes to allow access to Arizona public schools by students on the same Indian reservation yet residing in a different state. Signed by the governor on March 3, 1993.

SB 1080—Allows Indian reservation "community colleges" to be exempt from the State Community College Board's jurisdiction. Signed by the governor on April 20, 1993.

California

One bill failed to pass that would have authorized the repatriation of Native American remains, and the following are still under consideration.

AB 1051—Reactivates inoperative Indian education centers and establishes a new sunset date, January 1, 1997. Sent to the governor on July 14, 1993.

AJR 40—Asks the Congress of the United States to amend the Indian Gaming Regulatory Act clarifying that tribes are under the same restrictions as other state citizens, as well as to define "good faith." Referred to Assembly Committee on Governmental Organization.

AJR 41—Requests the president and Congress to provide at least two federally owned sites for the burial and reburial of Native Americans. On second reading in the Senate Committee on Natural Resources and Wildlife.

Colorado

One bill and one resolution in the legislature dealt with education. House Joint Resolution 1032 encouraged the instruction of Native American language and culture in the public education system, it passed the House and failed in the Senate. SB 20 was postponed indefinitely in the Senate. It would have required Native American history, culture and contributions to the civil government be added to the public school curriculum.

Connecticut

House Bill 7219 withholds funds from federally recognized Indian tribes unless the tribe establishes and adopts an Employment Rights Code for employees of the tribe and allows the governor to negotiate rights for employees of commercial enterprises that are subject to tribal jurisdiction. Signed by the governor on July 1, 1993.

Florida

A bill creating the Indian Gaming Commission to be responsible for negotiations between the state and tribes died. The following bill and resolution were passed.

HR 2385—Commemorates September 24, 1993 as Native American Day. Passed the House on March 31, 1993. (SR 1909)

SB 34—Renames the Northwest Florida Creek Indian Council as the Creek Indian Council, revises its membership and sets requirements for meetings and terms. Signed by the governor on April 1, 1993. (HB 1261).

Georgia

The one bill in the Georgia General Assembly is being held over for the 1994 session. It officially recognizes the Georgia Tribe of Eastern Cherokee, the Lower Muscogee Creek Tribe, and the Cherokee of Georgia Inter-tribal Council as legitimate American Indian tribes of Georgia.

Hawaii

In the 1993 legislature 72 bills and resolutions were introduced concerning Native Hawaiian issues. Of these, nine dealt with education, 13 dealt with economic development, four with health, four with preservation of cultural sites, 24 with sovereignty and nine with natural resources. The following are those signed by the governor or passed by either the Senate or House.

HB 1178—Authorizes the issuance of special revenue bonds to assist Native Hawaiian-owned industrial enterprises. Signed by the governor on June 18, 1993.

HB 1955—Amends the historic preservation law by adopting general rules of use for significant cultural, historic, and prehistoric sites and monuments. Signed by the governor on June 22, 1993.

HB 2010—Creates a process for individuals to resolve claims under the Hawaiian Home Lands Trust for damages resulting from a breach of trust by an employee of the state in the management and disposition of trust resources. Signed by the governor on July 1, 1993.

HB 2014—Authorizes the state to pursue claims against the federal government for the improper uses, transfers or takings of Hawaiian home lands by the federal government and appropriates money to provide additional means to rectify these events. Signed by the governor on July 1, 1993.

HB 2015—Establishes a commission to manage the Kaho'olawe Island Reserve and preserve its cultural and historic resources for the people of Hawaii. Signed by the governor on July 1, 1993.

HB 2019—Relates to the Hawaiian Homes Commission Act. Signed by the governor on May 21, 1993.

HR 24—Requests the resident and Congress to honor and fulfill the federal trust obligation to Native Hawaiians. Adopted April 19, 1993.

HR 27—Supports discussion and debate that will enable all citizens of Hawaii to understand sovereignty, as well as urging the U.S. Congress to provide funds for this program through the Administration for Native Americans. Adopted April 16, 1993.

HR 58—Requests the U.S. Congress to review the wrongs done to the Hawaiian people and to develop procedures for returning the Hawaiian lands back to the Hawaiian people. Adopted April 16, 1993.

HR 159—Requests a report on progress being made to fulfill the mandate of accessing water resources for the settlement of Hawaiian Homestead lands. Adopted April 19, 1993.

HR 175—Requests the president and Congress to issue an apology to Native Hawaiians for the overthrow of the Kingdom of Hawaii by the United States of America. Adopted April 14, 1993.

HR 210—Reaffirms support for the restoration of human, civil, property and sovereign rights of Hawaii's indigenous people. Adopted April 19, 1993.

HR 270—Requests the president and Congress to formally recognize Native Hawaiians as Native Americans. Adopted April 19, 1993.

HR 161—Requests a report on progress being made to fulfill the mandate of assessing water resources for the settlement of Hawaiian Homestead lands. Adopted April 30, 1993.

HR 273 (Same as HCR 275)—Recognizes 1993 as the Year of the World's Indigenous People. Adopted April 19, 1993.

HCR 179—Requests the president and Congress to issue an apology to Native Hawaiians for the overthrow of the kingdom of Hawaii by the United States of America. Adopted April 30, 1993.

HCR 213—Reaffirms support for the restoration of human, civil, property, and sovereign rights of Hawaii's indigenous people. Passed the Senate on April 30, 1993.

HCR 272—Requests the president and Congress to formally recognize Native Hawaiians as Native Americans. Passed the Senate on April 30, 1993, and sent to the House for concurrence.

SB 1027—Establishes a seven-member Salary Commission to determine salaries for the board of trustees of the Office of Hawaiian Affairs. Signed by the governor on July 1, 1993.

SB 1028—Provides for referendum to investigate whether or not to establish a Hawaiian Sovereignty Commission. Signed by the governor on July 1, 1993.

SR 18—Supports efforts to achieve sovereignty for Native Hawaiians and states the belief that the process of gaining sovereignty is a matter of federal jurisdiction and an obligation premised on the status of Native Hawaiians as Native American people. Adopted April 19, 1993.

SR 39—Supports appropriate incentives to enable young people of Hawaiian or part Hawaiian ancestry to achieve the education required for a career in public schools. Adopted April 19, 1993.

SR 46—Requests the feasibility of establishing a Hawaiian Cultural Center Complex. Adopted April 19, 1993.

SR 55—Urges the University of Hawaii Board of Regents and Administration to establish a Hawaiian Immersion lab school at the University of Hawaii. Adopted April 19, 1993.

SR 118—Reaffirms support for the restoration of human, civil, property and sovereign rights of Hawaii's indigenous people. Adopted April 19, 1993.

SR 187—Requests state assistance in the symbolic reinforcement of cordial relations between Great Britain and Hawaii. Adopted April 19, 1993.

SR 191—Requests the Department of Land and Natural Resources to effect the transfer of land surrounding Mo'okini Heiau to ensure its preservation. Adopted April 19, 1993.

SR 222—Requests the East-West Center and the Office of International Relations to investigate the feasibility of establishing project Ma'alo to promote the protection, registration and inventory of certain artifacts of the Pacific. Adopted April 19, 1993.

Idaho

Three bills died in the State Affairs Committee. Two were slated to create a commission to review American Indian issues. The third required that any negotiated compact between the state and tribes be ratified by the Legislature. A bill regulating cigarette sales pursuant to a cooperative agreement between the state and tribes died in the Senate Revenue and Tax Committee. Two bills were enacted.

SB 1196—Designates the governor to represent the state of Idaho in ongoing negotiations required between the state and federally recognized Indian tribes. The negotiated compact will allow only those forms of gambling authorized by state law to be conducted by Indian tribes. Signed by the governor on January 1, 1993.

SB 1284—Asks that an 11th amendment defense not be used by the state in order to resolve types of disputes over limits upon Class III gaming. (A ruling is being sought from the U.S. District Court for the District of Idaho by the Coeur d'Alene, Nez Perce and Kootenai tribes. The state is also asking if the Indian Gaming Regulatory Act violates the 10th amendment of the U.S. Constitution.) Signed by the governor on January 1, 1993.

Iowa

One of two pieces of legislation died in the House Human Resources Committee. It would have created a statewide commission to review the delivery and quality of health service to American Indians in the state of Iowa. The second piece was signed by the governor:

HB 484—Authorizes access to criminal histories of certain tribal gaming officials. Signed by the governor on April 27, 1993.

Kansas

Two of the three bills introduced this session are being held over for the 1994 session. One deals with the relinquishment of taxing jurisdiction over Indian tribes, and the second outlines procedures for negotiating, entering and implementing state-tribal gaming compacts. The third bill was ratified.

HB 2023—Provides procedures for negotiating and entering state-tribal gaming compacts through the governor or the governor's designated representative as well as creating a joint committee on gaming compacts. Signed by the governor March 3, 1993.

Louisiana

Two of the four bills introduced did not pass. The first concerned the appointment of an Indian Gaming Commission to negotiate gaming compacts with tribes; it died in the House Criminal Justice Committee. The second died in the House Judiciary Committee; it allowed tribal police to be designated peace officers following training and certification. One resolution and two bills were passed and signed.

HB 1217—Creates the Governor's Office of Indian Affairs and establishes its duties and guidelines. This commission is to serve as the negotiating agent between the state and tribes. Signed by the governor on June 2, 1993.

SB 496—Gives the governor authority to appoint an Indian Gaming Commission to negotiate gaming compacts on behalf of the

state with Indian tribes and to enter into and sign state-tribal gaming compacts. This act also stipulates that no compact shall be binding upon the state for more than seven years. Signed by the governor on June 22, 1993.

SCR 16—Formally recognizes the Caddo Adais Indian Tribe and requests the U.S. Congress and the Bureau of Indian Affairs to formally recognize the Caddo Adais Indian Tribe. Signed by the president of the Senate and speaker of the House on June 1, 1993.

Maine

A Senate bill allowing qualified individuals including members of Maine Indian tribes to be eligible for complimentary antlerless deer permits died in the Joint Committee on Fisheries and Wildlife. Two House bills were passed.

HB 584—Grants to the Passamaquoddy Tribe trademark protection for the name "Passamaquoddy." Signed by the governor on June 2, 1993 and is Public Law 210.

HB 1053—Makes the violation of protection orders issued by the tribal courts of the Passamaquoddy Tribe and of the Penobscot Nation a Class D criminal offense in the state court systems as well as the tribal court system. Signed by the governor on July 13, 1993 and is Public Law 469.

Maryland

A House bill allowing descendants, heirs, or appointed representatives access to American Indian burial sites with the consent of the land owner received an unfavorable report from the Environmental Committee. The following bill was enacted.

HB 343—Allows the Commission on Indian Affairs to accept designated gifts and grants and to maintain any unused money to be held in a special fund and to be carried over into the next fiscal year. Signed by the governor on April 26, 1993.

Massachusetts

The Massachusetts General Court meets throughout the year and these bills are being considered.

HB 402—Declares the third Friday in September as Native American Day. Passed Third Reading in the House.

HB 1533—Allows teachers who have worked in VISTA or the Indian Bureau to buy that time into the teacher's retirement system. Is under consideration in the Committee on Public Service.

Michigan

The Michigan House of Representatives recently passed a bill providing tuition waivers for North American Indians in public state or junior community colleges, public colleges, or public universities. It is being considered by the Senate Education Committee.

HB 4156—Allows law enforcement officers of a Michigan Indian tribe to be certified as a police officer under the Michigan Law Enforcement Officers Training Council Act of 1965. Is in the Senate Committee on Judiciary.

Minnesota

Minnesota considered 21 measures in the 1993 session. Two companion bills, SB 220 and HB 5758 failed to pass. These bills settled claims by the Mille Lacs Band of Chippewa of natural resource rights under treaty. In the House Health and Human Services Committee a bill died reimbursing administrative costs for services to the Red Lake Indian Reservation. Two bills related to gambling negotiations failed. The following five bills were ratified.

HB 264—Authorizes tribal Indian housing demonstrations of innovative methods for the housing of urban Indians. Signed by the governor on April 19, 1993.

HB 1146—Creates a special definition of pupil units, early retirement levies and special transportation aid to a public school when pupils attend a nonpublic school on a reservation in the same district as a public school. Incorporated into the Omnibus K-12 Education and Finance bill, Ch. 224.

HB 1604—Establishes procedures for accepting applications by the Board of Public Defense to be funded by an American Indian

nonprofit law corporation for representatives involved in a case covered by the Indian Child Welfare Act. Is in the House Committee on Judiciary. Incorporated into the Omnibus Judiciary and Appropriations bill, Ch. 146.

SB 1315—Provides for a civil action against a person violating Indian burial grounds. Passed, and is Chapter 288. Signed by the governor on May 19, 1993.

SB 97—Allows an American Indian adult to furnish tobacco products to an American Indian minor in public schools if it is used as part of a traditional Indian spirituality ceremony. Passed the Senate and is in the House Committee on Judiciary. Incorporated into the Omnibus K-12 Education and Finance bill 224.

Mississippi

Two companion bills were introduced into the House and Senate. Both authorized the governor to negotiate and execute on behalf of the state any tribal-state gaming compact authorized under federal law. Both died in the House and Senate Ways and Means Committees.

Montana

A Senate bill declaring the fourth Friday in September as Native American Heritage Day was killed on second reading. The House Committee on Education tabled a bill appropriating money to help the recruitment and retention of American Indians in higher education. Three other bills died in committee as well. The first gave hiring preferences to Indians for state projects on the reservation. The second prevented dual taxation of alcoholic beverages on the reservation, and the last granted greater interpretive latitude to the Gambling Control Division of the Department of Justice for the Indian Gaming Regulatory Act. House Bill 767 was indefinitely postponed on second reading in the House and would have exempted certain royalties received by an Indian tribe from taxation. A bill appropriating money for tribally controlled colleges was tabled in the Special Joint Subcommittee on Education. Four bills were enacted.

HB 92—Clarifies the State-Tribal Cooperative Agreements Act authorizing the state to assess, collect, or refund a tax, license, or permit fee, and requires a public agency to hold public forums prior to entering into an agreement on taxation, gambling, fish and game, or environmental regulations with a tribal government. Signed by the governor on May 10, 1993.

HB 283—Prevents dual taxation on cigarettes sold on Indian reservations, and requires the Montana Department of Revenue to share revenue with tribes determined by a negotiated population formula, as well as penalties for the selling of unstamped cigarettes. Signed by the governor on April 16, 1993.

HB 693—Increases from four to eight the membership of the Committee on Indian Affairs. Signed by the governor on May 11, 1993.

SB 368—Cedes to the Confederated Salish and Kootenai tribes criminal misdemeanor jurisdiction on the Flathead reservation from the state of Montana. Signed by the governor on April 24, 1993 and is Chapter 542.

Nebraska

Two resolutions died in the Legislative Committee on Executive Board. The first requested the examination of the Indian Gaming Regulatory Act for types of gaming subject to negotiation, legal parameters and sovereign rights of Indian tribes, and the second requested the Nebraska Commission of Indian Affairs to assess methods of effective advocacy for minorities and women in Nebraska. Two bills were passed and signed.

LB 231—Authorizes the governor or representative to negotiate with tribes in good faith for the purpose of entering into tribal-state compacts regarding Class III gambling. Signed by governor on June 10, 1993.

LB 725—Allows tribal governments in distressed areas with high unemployment to apply for designation as an enterprise zone which will entail economic development plans and new action encouraging private

investment in the area. Signed by the governor June 8, 1993.

Nevada

Two bills died in the Ways and Means Committee. The first dealt with the special educational needs of American Indians, and the second would have appropriated money for the building of a school on an Indian reservation. A bill to exempt Indian reservations from certain state gasoline taxes was indefinitely postponed in the Assembly Committee on Taxation, as was a bill allowing Indian reservations to impose an excise tax on liquor. A resolution asking for the Indian Gaming Regulatory Act to be amended or for a moratorium to be declared on new compacts died in the Senate Judiciary Committee. Four pieces of legislation were enacted.

AB 618—Relinquishes state claims to sections of the beds and banks of the Truckee River on the Pyramid Lake Indian reservation. Signed by the governor on July 9, 1993.

AB 653—Asks that the Department of Transportation designate specific property to the United States for the use of the Walker River Paiute Tribe. Signed by the governor on July 12, 1993.

SB 408—Alters penalties for the protection of Indian burial sites. Signed by the governor on June 28, 1993.

SB 443—Allows for the addition of a representative of the Inter-Tribal Council of Nevada, Inc., to the Nevada State Board on Geographic Names. Signed by the governor on June 11, 1993.

New Jersey

The New Jersey Legislature meets throughout the year. A bill establishing the New Jersey Commission on Indian Affairs and the designation of an American Indian day are being considered.

New Mexico

Forty-three pieces of legislation concerning American Indians were considered. Four House bills were vetoed by the governor. The first authorized the New Mexico Office of Indian Affairs to negotiate and execute tribal-state gaming compacts. The second related to the Commission on Indian Affairs. The third provided for wholesale liquor sales to certain Indian tribes. The last would have allowed tribal and pueblo police officers to be designated as New Mexico peace officers. The following measures were passed and signed.

HB 164—Stipulates penalties for people damaging cultural property. Known as the Cultural Properties Protection Act, this act provides for restoration, preservation and stabilization of cultural properties. Signed by the governor on April 3, 1993.

HB 181—Authorizes all people who are duly commissioned officers of the sheriff's department of any New Mexico Indian tribe or pueblo to be recognized and authorized to act as New Mexico peace officers. Signed by the governor on April 3, 1993.

HB 231—Includes Indian tribal governments under the provisions of the Litter Control and Beautification Act. Signed by the governor on April 7, 1993.

HB 501—Appropriates funds to the University of New Mexico in Bernalillo County for its New Mexico Natural Heritage program. Signed by the governor on April 8, 1993.

HM 13—Encourages the continued and expanded use of Native American names and images by athletic teams. Signed by the officials of the House on March 8, 1993.

HM 18—Recognizes the healing and spiritual benefits of the art of the "Sobada." Signed by the officials of the House and awarded as a certificate on February 5, 1993

HM 20—Recognizes and supports the efforts of U. S. Congressman Bill Richardson to promote Native American sovereignty and self-sufficiency. Signed by the officials of the House and awarded as a certificate on February 15, 1993.

HM 26—Supports requests for federal funding for completion of the Navajo Indian Irrigation Project. Passed the House on March 6, 1993.

HM 55—Requests the death investigation services performed by the Navajo Nation to be studied with special emphases on jurisdiction and financial issues. Passed the House on March 17, 1993.

HM 58—Requests that federal, state and local environment regulatory requirements be complied with by federal, state, Indian tribal and local governments. Passed the House on March 17, 1993.

SB 61—Gives inmates of Native American descent in correctional facilities the same access to spiritual leaders and religious items afforded to those of Judeo-Christian religions. Inmates will no longer be required to have hair cut if it conflicts with native religious beliefs. Signed by the governor on March 31, 1993.

SB 829—Requires notice of application for permitting of solid waste facilities to be sent to Indian tribes and pueblos when the boundary of a reservation or pueblo is within 10 miles of the proposed site. Signed by the governor March 2, 1993.

SJM 4—Requests the president to appoint Native Americans to federal judgeships. Signed by the officials of the Senate on March 13, 1993.

SJM 19—Requests the U.S. Congress to completely fund the Indian Child Protection and Family Violence Protection Act. Passed the House on March 19, 1993.

SM 12—Requests the governor to appoint more Native Americans to state judgeships. Signed by the officials of the Senate on February 7, 1993.

SM 18—Requests the governor to appoint Native Americans to University Boards of Regents. Passed the Senate on March 11, 1993.

SM 20—Supports the Navajo agriculture products industry and requests federal funding for completion of the Navajo Indian Irrigation Project. Signed by the officials of the Senate on March 12, 1993.

SM 24—Requests that solid waste management programs on Indian lands be federally funded and that the New Mexico legislature fully support such processes. Passed the Senate on March 10, 1993.

SM 26—Requests the Rural Electrification Administration to provide assistance to the Navajo Utility Authority to give immediate attention to the rectification of isolated areas without electrical service necessary for basic human existence and minimum quality of life. Signed by the officials of the Senate on March 18, 1993.

SM 36—Requests the U.S. Congress to fund the conservation of soil and stop erosion of soil on Navajo Lands. Passed the Senate on March 10, 1993.

SM 37—Recognizes the importance of the Pinion-Juniper ecosystem and the pinion nuts as supplemental food and income to the traditional inhabitants of New Mexico. Passed the Senate on March 12, 1993.

SM 61—Requests a task force to study the delivery of Indian Children Services. Passed the Senate on March 19, 1993.

SM 73—Encourages enhanced interstate and international trade with Indian tribes and pueblos. Passed the Senate on March 19, 1993.

SM 92—Requests a feasibility study of an arts and crafts cooperative for the Eastern Navajo Agency in McKinley County. Passed the Senate on March 19, 1993.

New York

The legislature meets year round and these bills are being considered.

AB 2167—Authorizes trustees to allot tribal lands to families for oversight of lands, firewood, timber cutting and to lease land for the benefit of the tribe with the consent of three town justices. In the Assembly Government Operations Committee.

AB 4712—Establishes guidelines and authorization for the taxation of motor fuel and cigarettes sold to nonnatives on Indian reservations. In the Assembly Committee on Ways and Means.

AB 5144 and *SB 3157*—Designates the third Monday in June as Native American

Day. Referred to Committee on Government Operations.

AB 6298—Asks the state to protect nonIndian land owners from Indian settlement claims by functioning as guarantor of the monetary value of the land and reimbursor of last resort for land owners who do not win settlements. Referred to Committee on Government Operations.

AB 6743—Allows enrolled members of an Indian tribe or nation within the state to hunt, fish and trap off the reservation. In the Environmental Conservation Committee.

AB 6966—Strengthens the state's commitment to the protection of Native American Indian burial sites from deliberate or inadvertent disturbance and looting. In the Codes Committee.

AB 7755—Provides that a minimum rather than a maximum of 0.5 percent of federal community services block grant funds received by the state be allocated to Indian tribes. Is in the Assembly Committee on Social Services.

AB 8559—Provides for the licensing of gaming employees, registration of gaming service enterprises, investigation of gaming enterprises and regulation of gaming under a compact between an Indian nation or tribe. Passed the Assembly and is in the Senate Committee on Rules. (SB 6089)

SB 3920—Authorizes the state to act as guarantor of last resort for property owners who have lost property due to successful claims by an Indian tribe. Introduced to Senate Committee on Judiciary.

SB 5629—Provides for a reduced motor fuel excise tax in certain regions facing competition from bordering states or Indian reservations. In the Senate Committee on Investment, Taxation and Government Operations.

SB 5942—Allows the state police to have jurisdiction within the gaming casino and adjacent grounds under the terms of a tribal-state gaming compact and for the Oneida tribe to reimburse the state for expenses incurred. Is in the Senate Committee on Rules and has been amended.

North Carolina

Two bills were passed and signed. The first renames the State Indian Housing Authority the Indian Housing Authority and was ratified on June 23, 1993. The second relates to the North Carolina Indian Cultural Center and was signed by the heads of the two chambers.

North Dakota

Two bills failed to pass the House. One created a center for the study of American Indian Law, and the other provided financial assistance to Indian students attending tribally controlled colleges. Two bills have been signed by the governor. A House concurrent resolution passed both the House and Senate but has not been prioritized. It requested a study of eligibility of the state to receive land from the Three Affiliated Tribes and the Standing Rock Sioux Tribe.

HB 1323—Directs the Department of Transportation to incorporate the number of motor vehicles registered under tribal authority when calculating the distribution of the highway tax fund to each county. Signed by the governor on April 4, 1993.

SB 2007—Appropriates money to defray the expenses of the Indian Affairs Commission. Signed by the governor on April 28, 1993.

Ohio

Senate Bill 189 blocks the use of public money for the Cleveland Indian's new Gateway Ballpark if they use Chief Wahoo as their symbol.

Oklahoma

A bill for subsidized adoption of children under permanent control of the Department of Human Services, including those of federal Indian tribes did not pass the Senate. A bill failed to pass that authorized the Oklahoma Legislature to regulate gaming machines used by Indian tribes. A Senate bill failed to pass that authorized the governor to negotiate and enter into cooperative agreements with tribes. Another Senate bill authorizing the State Bureau of Investigation to monitor Indian gaming compacts died in

Senate committee. The following were ratified.

HB 1479—Allows federally recognized tribes to inspect court records of juveniles of concern to the tribe without a court order. Signed by the governor April 20, 1993.

HB 1595—Declares the Oklahoma State Bureau of Investigation to be the agency responsible for monitoring and oversight of approved Indian gaming compacts.

SB 42—Designates the drum as the Native American musical instrument in Oklahoma. Signed by the governor on June 3, 1993.

SB 113—Increases the membership of the Oklahoma Indian Affairs Commission from 9 to 16 and broadens liaison function. Signed by the governor on June 7, 1993.

SB 576—Appropriates money to the Indian Affairs Commission for operating costs. Signed by the governor on May 27, 1993.

SCR 13—Supports the Teenage Suicide Awareness Project as coordinated by the Indian Capital Vo-Tech Practical Nursing Chapter of the Health Occupations Students of America in Muskogee. Passed the Senate and House on March 4, 1993.

Oregon

Four House bills and two Senate bills were introduced. HB 5038 appropriates money for biennial expenses of the Commission on Indian Services and is in the Appropriations Committee. In the subcommittee on transportation is a bill requiring the smooth transfer of a city cemetery property to a tribal council. The House General Government Committee considered two bills. The first creates policy regarding Native American archaeological sites; the second allows for special assessment of taxes of property containing American Indian artifacts. In the Senate Judiciary Committee two bills dealt with American Indian burial rights. The first provides that no person without permit and tribal approval may remove tribal property. The second creates penalties for disturbance of Native Indian burial sites. Three pieces of legislation were enacted.

HB 2109—Defines procedures for conducting negotiations with any federally recognized Indian tribe that may have a federal reserved water right claim in Oregon. Signed by the governor on April 1, 1993.

HB 3286—Increases limits on the amount of salmon provided to Confederated Coos, Lower Umpqua and Siuslaw Tribes for ceremonial purposes. Signed by the governor on July 28, 1993.

HB 3288—Exempts from taxation land that is being transferred into trust acquired after January 1, 1991, and continues until June 1, 1996. Signed by the governor on July 6, 1993.

Pennsylvania

The Legislature meets throughout the year and these bills are being considered.

HB 1771-Provides for the protection of unmarked human burial sites, and provides for the respectful treatment of human resources and repatriation of Native Americans and funerary objects. Is in the House Tourism and Recreation Development Committee.

SB 1107—Provides for the identification and protection of Native American Indian burial sites and imposes penalties.

Rhode Island

In the House Labor Committee a bill died that asked Indian tribes employing Rhode Island residents to adopt a labor relations code protecting worker's rights. A bill authorizing cities to create Indian housing authorities died in the House Committee on Corporations. One bill was ratified.

HB 6539—Provides for housing of Indians with low income by empowering Rhode Island cities and towns to create an Indian Housing Authority. Signed by the governor on July 29, 1993.

South Carolina

Two bills were signed by the governor, Senate bills 608 and 695. The first implements the settlement of Catawba Indian land claims and the second provides for a $2.5 million payment to the Catawba Indian tribe for a portion of the Land Settlement Act.

South Dakota

A Senate bill that would have continued the implementation of the cooperative state-tribal tax agreement with the Cheyenne River Sioux tribe died at the end of the calender. The duplicate Senate bill of House Bill 1246 was tabled in the Appropriations Committee. Two pieces of legislation were passed.

HB 1001—Establishes a continuing State-Tribal Relations Committee. Signed by the governor on February 8, 1993.

HB 1246—Appropriates money to fund the Indian scholarship program. Signed by the governor on March 30, 1993.

Tennessee

One bill would have increased the number of American Indians appointed by the governor to the Tennessee Commission of Indian Affairs from three to four. The measure died in the Government Operations Committee.

Utah

A house joint resolution urging the Skull Band of the Goshute Nation not to host a monitored retrievable storage facility died in the House. The following bill was enacted.

HB 368—Appropriates money for the reburial of Native American remains recovered from sites throughout the state. Signed by the governor on March 19, 1993.

Vermont

The legislature considered two bills relating to state-tribal interests. The first required a space on Vermont vital records for American Indian racial origins and it died in the House Health and Welfare Committee. In the House General and Military Affairs Committee a bill died proposing to recognize the Abenaki people as a matter of state law and assist the tribe in obtaining federal recognition. This bill previously died in the 1992 session.

Washington

Nine bills were debated by Washington policymakers. A bill establishing a center for the development of curriculum on American Indians of the Northwest did not pass the House. House bill 2073 included Indian tribes in mental health systems; it died in the House Human Services Committee. Modifications to the methods of commercial salmon fishing without affecting the existing treaty on Indian fishing rights were provided for in Senate bill 5087; it died in the Natural Resources Committee of the Senate. A bill that died in the Senate Energy and Utilities Committee would have directed the governor to assemble representatives from state, local and tribal governments to prepare a report on water reserve issues in the Central Puget Sound Area. A Senate bill requiring counties to invite affected Indian tribes to better coordinate programs of water resource planning died in the Energy and Utilities Committee. In the Senate Natural Resources Committee a bill died requesting Indian tribal fishing interests to be represented in development of plans for selected fisheries. Three bills were passed and signed.

HB 1174—Requires the culture, history and government of the American Indian peoples of the state and region be included in the Washington state history or Pacific Northwest history. Signed by the governor on April 21, 1993.

HB 1175—Allows that the requirements of basic skills in reading/language arts can be met by studying American Indian languages in all grades. Signed by the governor on May 15, 1993.

HB 2048—Clarifies procedures for appropriating money for scholarships from the American Indian scholarship endowment fund. Signed by the governor on May 15, 1993.

Wisconsin

The Wisconsin Legislature meets throughout the year. These bills are being considered.

AB 296—Establishes a council on American Indian health preparation, plans, projects and intercultural training with community program boards. In the Assembly Committee on Health.

AB 382—Allows for the investigation and acquisition of records, on Indian gaming employees, licensees or vendors. In the Special Committee on Gambling Oversight. (SB 182)

AB 401—Relates to tribal reporting on recoveries of public assistance benefits. In the Assembly Committee on Rules.

AJR 27—Requests the school board of every public school districts in the state to study whether or not use of an American Indian logo, mascot or nickname is reinforcing a stereotype or creating an intimidating or offensive environment. In the Senate Committee on Education.

Wyoming

The legislature of Wyoming considered one bill that required Wyoming courts to grant tribal acts, rewards and judicial proceedings full faith and credit. This bill died in the Senate Judiciary Committee. It was reintroduced from the 1992 session.

1992 Summary

In 1992 38 states considered legislation that addressed issues of particular concern to Native American citizens. In 25 states, legislators enacted laws and passed resolutions and memorials on those issues. Topics ranged from religious freedom to gaming, from repatriation of human remains to tax collection. In all, 291 bills and resolutions were introduced, an increase over 1991 when approximately 200 bills were introduced. At least 106 pieces of the 1992 legislation had received final approval by September 1992.

Hawaii's Legislature, with 48 bills and resolutions, led the field in enactments. The state extended a formal apology to the Hawaiian people for breeches of trust responsibility, and a number of acts focused on issues of housing, education, language, health, and corrections as they affect Native Hawaiians.

The House and Senate of Oklahoma—identified in the 1990 census as the state with the greatest number of Native Americans—passed six pieces of legislation dealing with such matters as funding for continuation of the Oklahoma Indian Affairs Commission, extending full faith and credit to tribal courts, training of cross-deputized tribal police officers, and collection of cigarette taxes.

Arizona strengthened its laws regarding the authenticity of Indian arts and crafts, passed a law requiring the state Superior Court to recognize tribal court orders for involuntary commitment, and asked the legislatures of Colorado, New Mexico and Utah to pass laws preventing the exporting of substandard gasoline to the Navajo Reservation.

Legislation in Maine addressed the trust status of lands of the Penobscot and Passamaquoddy Tribes and extended tribal jurisdiction over criminal, civil and domestic matters on trust lands that fall within exclusive jurisdiction of tribal courts. Three of New Mexico's six legislative memorials focused on issues of importance to many Native Americans: requesting supplemental appropriations from Congress for programs for Indian elderly, supporting the Second National Native American Very Special Arts Festival and requesting Congress to adopt amendments to the American Indian Religious Freedom Act of 1978.

The California Legislature also stated its support of amendments to the American Indian Religious Freedom Act of 1978. The legislature approved a cooperative arrangement in which a county Community Action Agency may serve as the grantee for an American Indian program by sharing allocation authority with an American Indian "entity."

The Colorado General Assembly addressed religious freedom concerns by passing a law ensuring that American Indians confined to a correctional facility will have access to spiritual leaders, religious objects and religious facilities.

By joint legislative resolution, Maine commemorated 1992 as the Year of the Native American and Michigan commemorated October 12, 1992, as Michigan's Aboriginal People's Day. A Senate resolution in New Hampshire proclaimed October 12, 1992, as Native American Day, which day also commemorates the 500th anniversary of the arrival of Christopher Columbus.

Georgia and Maryland passed laws to allow the return of human remains to Native descendents or appropriate American Indian tribes. California and Hawaii enacted similar legislation in 1991.

Illinois now includes Native Americans among the minority students eligible to apply and qualify for minority teacher scholarship assistance. Virginia encourages public schools to emphasize appropriate activities for all grades during Native American Week.

Minnesota adopted legislation to permit tribes electing to cover their workers under state unemployment compensation to be treated as nonprofit corporations. Alaska law now permits certain service with the Alaska

Bureau of Indian Affairs to be credited to state retirement systems.

Washington created a joint legislative committee to review gaming compacts negotiated under the federal Indian Gaming Regulatory Act, and Wisconsin acted to specify the forms of gambling that may be conducted by Indians on tribal lands.

Minnesota named an American Indian Child Welfare Advisory Council and made the American Indian Advisory Task Force permanent council.

A brief summary of each piece of 1992 Native American affairs legislation follows.

State Legislation Passed in 1992

Alabama

A bill clarifying, acknowledging and reaffirming the sovereign relationship between the state of Alabama and the Choctaw Indians was postponed indefinitely. The following legislation was enacted:

S 53—Relates to the Alabama Sunset Law and continues the existence and functioning of the Alabama Indian Affairs Commission with certain modifications. Under the legislation, all activities by or on behalf of the state affecting Indian tribes must be studied and considered by the Alabama Indian Affairs Commission (AIAC). The AIAC also would receive half of all money resulting from judgments, settlements or other funds concerning the culture, historic site, or location of any aboriginal tribes located in Alabama.

Alaska

Thirteen bills and resolutions were introduced relating to Native American issues in Alaska. A measure to create a native language education curriculum, and an advisory board for districts with a high population of Native Alaskan students was defeated in the House. The following measures were enacted:

H 266—Includes service in a Bureau of Indian Affairs contract school as BIA service in the teacher's retirement system.

H 315—Relates to the inheritance and transfer of stock in corporations organized under the Alaska Native Claims Settlement Act.

H 323—Relates to credited services in the Public Employees' Retirement System for certain employment with the Alaska Bureau of Indian Affairs.

HJR 68—Urges Congress to reopen the Native allotments process for the benefit of Native military veterans.

S 283—Relates to the inheritance and transfer of stock in corporations organized under the Alaska Native Claims Settlement Act.

Arizona

Twenty pieces of legislation were examined by Arizona lawmakers. A bill concerning health care would have allowed tribes to assume the responsibility previously held by the county for eligibility determination for hospitalization and medical care of the indigent sick residing on the reservation. This bill also would have allowed the governor to enter into contracts or compacts with Indian tribes rather than the counties regarding health care for Native Americans on the reservations. The bill saw no action in the House. Another bill that was not enacted would have legalized peyote use in bona fide practice of Native American religious beliefs as an integral part of a Native American religious exercise. A third bill that has seen no action requires counties receiving money from the Arizona highway user fund to share money with Indian reservations for the maintenance of streets and highways on the reservation(s) located within the county. One Senate bill established a 50-foot limit for voting booths allowing only election officials and people who are voting to be inside the 50-foot limit. This bill, which was not acted on, would apply to an Indian tribe holding an election at a polling place simultaneously with any other election.
The following legislation was enacted.

H 2173—Makes an appropriation in FY 1993 and again in FY 1994 to pay the state's contribution to the Ft. McDowell Indian Community Development Fund established

by the community's Water Rights Settlement Act of 1990.

S 1159—Protects the public and Indian craftsmen from false representation in the sale of Indian arts and crafts that are not made by Native Americans. If a person sells or offers for sale nonauthentic Indian arts and crafts, then a sign must be posted explaining that items for sale are not authentic Indian arts and crafts. This act also requires a person selling what is represented as authentic Indian arts or crafts to "make due inquiry" (not defined) of suppliers as to the true nature of the manufacture and materials; provides that the $5,000 limit on the penalty for violating the general Indian Arts/Crafts Protection Law is removed; provides that a $500 per violation penalty is added; provides that a new section makes it an increasingly greater crime to violate the law depending on the value of the arts and crafts.

S 1119—Requires the State Superior Court to recognize and enforce an order for involuntary commitment issued by an Indian Tribal Court.

SCM 1001—Advises the legislatures of Colorado, New Mexico and Utah that distributors in their states are exporting substandard gasoline to the Navajo Indian Reservation in Arizona and asks them to pass laws to prevent it. The memorial was sent to the Arizona secretary of state to be sent to the president of the Senate, speaker of the House, and the chairmen of the legislative transportation committees of the states involved.

SCM 1004—Asks federal authorities to order the Indian Health Services Agency to fund the Dilkon Health Center.

California

California has the second-largest state population of Native Americans. The governor vetoed a bill providing technical assistance for the construction of suitable, decent, safe and sanitary housing for American Indians. A bill died in the Taxation and Public Safety Management Committee that clarified the state's enforcement powers over a solid waste facility in Indian Country. The proposed creation through a constitutional amendment of a nonvoting position in each house to be held by an indigenous Californian American Indian representative also failed. The two enactments that passed were:

AJR 98—States the Legislature's support of amendments to the federal American Indian Religious Freedom Act of 1978.

S 1529—Provides, in a county with a population of more than 7,000,000 people, that the County Community Action Agency may serve as the grantee for an American Indian program if requested by a commission composed of representatives of American Indian beneficiaries in that county and the county board of supervisors shares grant allocation authority with an appropriate American Indian entity.

Colorado

Colorado lawmakers passed two acts affecting Native Americans and tribal lands:

S 163—Concerns amendments to conform the Colorado Surface Coal Mining Act with the federal Surface Mining Control and Reclamation Act of 1977. Revises definitions of "operator" and "surface coal mining operation" to include removal of coal from facilities that store waste from coal processing plants. Makes federal entities and Indian tribes that conduct operations outside Indian lands subject to permit requirements. Allows applications with any public office.

S 197—Concerns freedom of worship for those confined to a correctional facility, grants American Indian inmates who practice an American Indian religion access to spiritual leaders, religious objects, and religious facilities on a basis comparable to access afforded inmates who practice Judeo-Christian religions.

Connecticut

Native American affairs were considered in three bills in the Connecticut General Assembly. A bill requiring construction and operation of toll plazas at the entrance of any Indian reservation conducting gambling activities went to the Committee on Public Safety. Those living on the reservation would not pay the toll. A public hearing was held, but the bill progressed no further. A task

force on Indian affairs to review the operations and effectiveness of the Indian Affairs Council, and to study the state's relationship with Native Americans not indigenous to Connecticut would have been established under another bill. The task force would make recommendations to the governor and to the assembly concerning state policy relating to Native Americans in the state. This bill was moved to the foot of the calendar in the Senate and died. Indigenous Native American tribes would have been able to regulate hunting and fishing on reservations under a bill that died in the Environment Committee.

Georgia

A bill held over from the 1991 session dealing with repatriation of human remains was enacted into law in April 1992. This law outlines procedures regarding the discovery of human remains and prohibits the exhibition of human remains. In accordance with this law certain museums must catalog all human remains and burial objects and return them to lineal (direct) descendants or the American Indian tribe of the deceased. A second bill deals with appropriate treatment of burial grounds.

H 457—Relates to parks and historic areas; provides that the state does not claim title to human remains and burial objects discovered on state properties or defined as submerged cultural resources; authorizes the Department of Natural Resources to establish and maintain a cemetery for the purpose of reinterring certain human remains and burial objects.

H 1611—Relates to abandoned cemeteries and burial grounds, clarifies that burial grounds include private plots; provides that preservation and protection of burial grounds encompass cleaning, restoration, maintenance and upkeep.

Hawaii

In 1992, Hawaii's legislature considered 48 pieces of legislation concerning Native American issues.

HB 370—In compliance with federal law, house bill 370, signed by the governor, appropriates money to assist in the repatriation of human remains and sacred objects from institutions using federal funds.

The governor also signed a bill strengthening the efforts of the Hawaiian Homes Commission to provide water on Hawaiian home lands for settlement by indigenous Hawaiians. This bill is designed to reserve enough water for settlement by indigenous Hawaiian home lands.

Money was appropriated to provide low-interest loans for self-help house construction on Hawaiian home lands on the island of Hawaii. The governor signed this bill on April 16, 1992.

A resolution urges counties to work with the Department of Hawaiian Home Lands to allow the development of low-income housing for families that aren't able to build single family detached housing. Occupation and development of Hawaiian home lands would combat homelessness, which leads many native Hawaiians to house their families in tents at public beach parks. A committee is also obtaining waivers from the United States Uniform Building Codes to speed the development of low-income housing.

Through a resolution the Department of Hawaiian Home Lands is requested to formally adopt a policy of self-determination among Native Hawaiian beneficiaries of the Hawaiian Home Claims Act. This master plan would eventually lead to a Hawaiian sovereign entity controlling and administering the HHCA.

A concurrent resolution requests the governor to provide the Office of Hawaiian Health with adequate staff and resources for statewide coordination of health services culturally appropriate to the Native Hawaiian community.

The Office of Hawaiian Affairs was requested to assess whether Native Hawaiians are over-represented in correctional institutions and to recommend ways to address any problems.

A House concurrent resolution requests the gifted and talented program to report its current efforts and recommendations to improve the delivery of programs to Native

Hawaiian children and other under-represented ethnic groups who are gifted and talented.

The Hawaiian House and Senate requested the federal government to withdraw its suit to condemn the Kamaka descendants' land in Waikane Valley and begin negotiations to fulfill lease conditions. This suit specifically addresses the accusation that the U.S. Marine Corps has breached the lease that requires that the land be cleaned up of any unexploded ordnance at the expiration of the lease. These conditions include continuing payment of the lease rent of an installment plan for cleaning up the land.

A resolution passed requesting the governor to institute appropriate legal proceedings against the United States and to solicit a congressional investigation into the trust obligations of the United States to Native Hawaiians. These legal proceedings would compel performance as well as redress past breeches of the trust obligations. This resolution requests the governor to solicit congressional investigations to determine whether public lands of Hawaii currently used by the United States are properly and legally held for actual and necessary civil, military, or naval purposes given the current paradigm in international relation and national security.

A measure recognizing the failures of the state of Hawaii to fulfill its trust responsibilities and extending a formal apology to the Hawaiian people for these failures was introduced. This measure would have addressed the issue of sovereignty and compensation to the beneficiaries of the Hawaiian Home Lands Trust for past abuses. The Legislature cites this breach of trust and treaty as the prime reason for the disproportionately high incidence of incarceration, infant mortality, substance abuse and domestic violence among Native Hawaiians. This measure formally recognizes the right of the indigenous Hawaiian people to sovereignty and self-determination. It also asks the president and the Congress to renew the recognition of and assist in the reestablishment of a sovereign indigenous Hawaiian government. The trust obligation shall be confirmed and be without prejudice toward the native Hawaiians' inherent right to the full exercise of sovereignty they never surrendered.

The following bills and resolutions passed.

H 2409—Relates to the Hawaiian language; provides that macrons and glottal stops may be used in the spelling of words or terms in the Hawaiian language in documents prepared by or for the state or county agencies or officials; states that any rule, order or policy, official or otherwise, that prohibits or discourages the use of these symbols shall be void.

H 2911—Enables 57 Hawaiian home lands lessees in Panaewa and Keaukaha on the Island of Hawaii to build their own affordable homes through self-help construction programs; appropriates $700,000 for Department of Hawaiian Home Lands to provide low-interest loans of up to $35,000 for the lessee.

H 3184—Provides supplemental appropriations to the Office of Hawaiian Affairs for fiscal biennium 1991-1993.

H 3400—Relates to wages and hours; applies to any public works project where the contract to construct said public work has not been finally executed or the bid for a public works project has not been finally accepted even though the negotiations for the construction of said public works project have begun or agreement in principle has been reached.

HCR 262—Requests the governor to ensure that adequate staff and resources are provided in the Office of Hawaiian Health within the Department of Health for statewide coordination and direction of health services that are culturally appropriate to the Native Hawaiian community.

HCR 263—Urges the counties to work with the Department of Hawaiian Home Lands, Native Hawaiian community representatives, architects and community planners to establish interim development standards to encourage the early settlement of Hawaiian home lands housing estates.

HCR 269—Requests the Office of Hawaiian Affairs to conduct an assessment of the Native Hawaiian population in the state's correctional institutions and programs.

HCR 300—Recognizes breeches of trust responsibility between the state of Hawaii and the Hawaiian people; extends a formal apology.

HCR 302—Requests the establishment of an ad hoc committee to examine issues related to Hawaiian entitlement.

HCR 361—Requests the Department of Education to report on its current efforts and recommendations to improve the delivery of programs and services to Native Hawaiian children who are gifted and talented.

HR 194—Requests the Department of Hawaiian Home Lands to study the feasibility of offering cattle leases for its Moloka'I lands as a means to improve the island's economy and provide for public safety.

HR 272—Requests the governor to ensure that adequate staff and resources are provided in the Office of Hawaiian Health within the Department of Health for statewide coordination and direction of health services that are culturally appropriate to the Native Hawaiian community.

HR 273—Urges the counties to work with the Department of Hawaiian Home Lands and Native Hawaiian community planners to establish interim development standards to encourage the early settlement of Hawaiian home lands housing estates.

HR 278—(Resolution) Requests the Office of Hawaiian Affairs to conduct an assessment of the Native Hawaiian population in the state's correctional institutions and programs.

HR 306—(Resolution) Requests establishment of an ad hoc committee to examine issues relating to Hawaiian entitlement.

HR 358—(Resolution) Requests the Department of Education to report on its current efforts and recommendations to improve the delivery of programs and services to native Hawaiian children who are gifted and talented.

HR 392—Requests the provision of emergency housing shelters for low income and homeless individuals and families who have access to building sites on Department of Hawaiian Home Lands.

HR 404—(Resolution) Requests the Department of Hawaiian Home Lands to adopt a policy of self-determination.

S 1434—Relates to people dispossessed or displaced by volcanic eruptions; awards long-term leases on state lands to those residents of Kalapana who are of Hawaiian ancestry and who were dispossessed or displaced from their homes as a result of volcanic eruptions on the island of Hawaii after January 3, 1983.

SCR 151 (Same as SR 120)—Requests the federal government to withdraw its condemnation of the Waikane Valley lands of Hawaiian families and fulfill its lease agreement, and requests the Governor, the Congressional Delegation, and the Attorney General to help these Native Hawaiian families.

SCR 210 (Same as SR 174)—Urges the state to assist the Samoan community in celebrating its cultural heritage.

SCR 213—Urges the exploration of ways and incentives to encourage the visitor industry to preserve and promote the culture of Hawaii.

SCR 228 (Same as SR 189)—Requests the governor to institute legal proceedings against the United States and to solicit a Congressional investigation concerning breach of federal trust obligations to the inhabitants of Hawaii and to Native Hawaiians.

Idaho

In light of the quincentennial observance of Columbus' journey to America, Idaho declared 1992 the Year of the Native American and affirmed the cultural contributions of Native Americans. The resolution states, "[the Native American] way of life continues to offer insight into solutions

for contemporary and urgent problems for a troubled planet and a fragmented people." Legislators also approved the following bill:

H 570—Allows peace officers of federally recognized Indian tribes to attend the state Peace Officer Standards and Training Academy upon certain conditions.

Illinois

The Illinois Legislature adopted one bill relating to Native Americans:

H 3278—Includes Asian Americans and Native Americans among the minority students eligible to apply and qualify for minority teacher scholarship assistance.

Iowa

HB 2468 would have authorized the Department of Revenue and Finance to enter into agreements with an Indian tribe to collect and distribute a state tax or a tribal tax. The bill has not moved, primarily due to tribal opposition.

Kansas

Eight bills were introduced in the legislature, none of which passed. A concurrent resolution attempted to supersede the power of the U.S. secretary of the Interior to make tribal-state gaming compacts. If such a compact were made it would be illegal to implement unless ratified by the state legislature. Legislation retroceding to an Indian nation all or part of federal jurisdiction delegated to the state of Kansas was defeated. A bill died that would have enforced tax collection on transactions of nontribal members living on reservations located in Kansas.

Kentucky

A bill naming the Delilah Whitecloud United Cherokee Indian Tribe of Kentucky as the official Native American Cherokee Indian tribe of Kentucky died as did a a bill proposing the operation of a housing authority on the reservation.

Maine

Eleven bills and resolutions were introduced in the Legislature in 1992. Modifications to the Maine Indian Settlement Claims Act of 1970 between the Penobscot Nation and the Maine Land Use Regulations Commission was not resolved. This bill would have provided for greater flexibility in land use management. A bill to allow Maine's federally recognized Indian tribes to conduct high-stakes beano games as a means of raising money for tribal operations did not pass. A bill placing regulatory authority with the Passamaquoddy Tribe for reservation land use control, including freshwater wetlands, was passed by the House and the Senate but has been sitting on the governor's desk since March 1992. A joint resolution commemorating 1992 as the Year of the Native American passed, as did the following legislation:

H 1433 (LD 2045)—Fixes a flat rate of 25 percent by which the state subsidy for education may be reduced as a result of the receipt of federal funds for school operations by the Penobscot Nation and the Passamaquoddy Tribe.

H 1469 (LD 2081)—Allows the Passamaquoddy Tribe to place into trust a small farm that the tribe acquired from a member in 1988.

H 1472 (LD 2084)—Concerns the Penobscot Nation trust land designation; gives consent to the town of Lakeville and the Penobscot Nation to place in trust status land owned by the Penobscot Nation.

H 1494 (LD 2106)—Extends the territorial jurisdiction of the Passamaquoddy and Penobscot Tribal Courts to all of the trust lands of the respective tribes, instead of just their reservations, over those criminal, civil and domestic matters that fall within the exclusive jurisdiction of the tribal courts; extends the jurisdiction of the Passamaquoddy Tribal Court to include Class D offenses committed by tribal members; makes clear that the tribal courts have jurisdiction over all Class D and Class E offenses.

Maryland

In May 1992 the governor signed into law a bill allowing Indian tribes to reclaim human remains and burial objects from museums or trusts. Indian remains also will be repatriated if discovered on new archaeological sites.

H 1081—Permits transfer of human remains, including Native American human remains, held by the Maryland Historical Trust to descendants of deceased, culturally affiliated groups, or groups, or other appropriate places of repose, as delineated; requires the Maryland Historical Trust to adopt regulations to carry out provisions of the Act; and defines "human remains" and "Native American."

Massachusetts

Massachusetts' Senate Committee on State Administration is studying a bill that will replace Columbus Day with Native American Day. The bill is not expected to move out of committee.

Michigan

Pending in the Conservation, Recreation and Environment Committee is a measure to appropriate additional money to supplement former appropriations for Indian fisheries management. The state has declared November to be Native American Heritage Month. The following legislation was enacted:

HR 692—Recognizes the Little Traverse Bay Bands of Odawa Indians as a historic Indian tribe and supports the efforts of this tribe to obtain federal reaffirmation.

HR 987—Endorses efforts of the Little River Band of Ottawa Indians to obtain federal reaffirmation as a Michigan historic Indian tribe.

SCR 754—Commemorates October 12, 1992, as Michigan's Aboriginal People's Day.

Minnesota

Seven pieces of legislation were considered by Minnesota; all but three died. HB 827, which defined "Native American wild rice," would have required any label to contain the name and address of the Indian reservation where the wild rice was grown and harvested to preserve the authenticity of Native American products. Identical bills requesting the University of Minnesota to establish a policy center for American Indian law and social justice on the Duluth campus failed to pass. The center would have engaged in research, data collection, information dissemination, and resource material acquisition, providing impetus for a tribal-university partnership. Duplicate bills also were introduced prohibiting the use of state money by any school using names or mascots demeaning to Native Americans; neither bill passed. The following legislation was enacted:

S 1590 (Same as H 2360)—Provides that Indian tribes that elect to cover their workers under state unemployment compensation shall be treated as nonprofit corporations. Allows the Red Lake Band of Chippewa Indians to elect coverage and be assigned a zero experience rate for 1988 through 1990.

S 2186 (Same as H 2342)—Makes the American Indian Advisory Task Force a council that does not expire, and names the American Indian Child Welfare Advisory Council; adds a member appointed by the Commissioner of Human Services to the Child Abuse Prevention Advisory Council.

S 2699 (Same as H 2335)—Relates to the Department of Administration; classifies certain data; allows certain supplemental construction work prior to encumbering funds; specifies that bidding preferences are not cumulative; sets preference for recycled or recyclable material in bid specifications.

Mississippi

Two bills authorizing the governor to negotiate tribal-state gaming compacts died in Senate committee.

Missouri

Legislators introduced a bill to stop the transfer of money after 1993 to benefit a county sports complex owned or leased by a team that discriminates against Native Americans or mocks sacred Native American symbols; the bill did not pass. A bill to

determine the proper disposition of remains having an ethnic affinity with living peoples would have allowed for consultation between the state historic preservation officer and leaders of the ethnic group. This bill died as well.

Nebraska

Nebraska's Unicameral considered four pieces of legislation pertaining to Native Americans. A bill for a Commission on Indian Affairs consisting of 14 enrolled tribal members was signed by the governor. The Health and Human Services Committee was asked to study services for Native American children and ways to improve the child protection service and foster care system in Nebraska. Bills held over from the 1991 session died with the end of the 1992 session. One would have allowed the governor to negotiate tribal-state compacts regulating certain types of gambling and to provide a public policy regarding the compacts. The other bill would have appropriated money to assist in the running of the Nebraska Indian Community College. The following legislation was enacted:

L 862—Established the Commission on Indian Affairs and describes the required quorum of the commission.

New Hampshire

Two resolutions were introduced in the Legislature. Both resolutions designated October 12, 1992, as Native American Day. The first died in the House and the second passed in the Senate.

SR 22—Proclaims October 12, 1992, as Native American Day, as well as commemorating the 500th anniversary of the arrival of Christopher Columbus.

New Jersey

Under AB 1076 (see also SB 492) chiefs of the Powhatan-Renape Nation, Nanticoke-Lenni-Lenape Indians, the Ramapough Mountain Indians, or their authorized designees, would be authorized to solemnize marriages. This bill failed in the Assembly Judicial Committee. In the Senate Government Committee a bill designating the fourth Friday in September of every year as American Indian Day died. A bill establishing a New Jersey Commission on Indian Affairs, comprised of six public members appointed by the governor, with Senate confirmation based upon recommendations made by the American Indian Council of New Jersey, also failed to pass.

New Mexico

One House bill and nine memorials were introduced in the Legislature. One memorial would have protected the integrity of native arts and crafts of New Mexico Indian tribes and Pueblos, preventing them from being subject to theft and forgeries. It did not pass. A Native American languages bill died which required the courts to hire translators for individuals understanding only Navajo. Six of the nine memorials were passed and signed. A memorial clarifying the word "Indian" was defeated. This piece of legislation would have helped to stop the delivery of services to people claiming to be Indians who had less than one-quarter Indian blood. The following legislation was enacted:

House Joint Memorial 5—Supports the Second National Native American Very Special Arts Festival.

House Memorial 76—Requests the Congress of the United States to approve supplemental appropriations for the Indian Health Service to continue to fund programs for Indian elderly and to eliminate alleged discriminatory allocation of resources.

House Memorial 78—Requests the New Mexico congressional delegation to request the Federal Emergency Management Agency to consolidate the Navajo Nation into one Federal Emergency Management Agency Region and classify the Navajo Nation as either a state or local government for disaster relief assistance funding.

House Memorial 79—Requests Congress to adopt the amendments proposed by Senator Daniel K. Inouye to the American Indian Religious Freedom Act of 1978.

Senate Memorial 4—Supports the request for federal recognition as an Indian tribe by the Piro-Manso-Tiwa Indians.

Senate Memorial 92—Requests the director of the Alcohol and Gaming Division to implement a process to identify potential bootleggers in San Juan and McKinley counties and requests the secretary of Public Safety and the director of the Alcohol and Gaming Division to work closely with the Navajo Nation to stop bootlegging.

New York

Four of five bills pending in the Legislature have seen no action. Bills to allow certain towns to enter into a mutual benefit agreement with the Seneca Nation of Indians to enhance water distribution have been with the Local Governments Committee since January 1992. Another bill has been held in the Higher Education Committee since March of 1992. It relates to awarding scholarships and fellowships to minority groups and economically disadvantaged people in certain teaching programs. The following legislation was enacted:

A 10448 (Same as S 8592)—Repeals the statutory designation of the University of the State of New York as Wampum-keeper of the Ho-de-no-sau-nee.

North Carolina

Legislators passed one Native American bill:

S 531—Provides that the Eastern Band of Cherokee Indians shall be eligible to be a member of a regional solid waste management authority, and apply for financing a project with a loan from the North Carolina Solid Waste Management Capital Projects Financing Authority.

Ohio

Still pending is a resolution that recognizes the Piqua Sept of Ohio Shawnee Tribe as an Indian tribe and a sovereign entity.

Oklahoma

Seven bills and resolutions were considered by Oklahoma lawmakers. Two resolutions and one Senate bill were passed. A bill to protect the authenticity of Native American products died in committee. Legislation legalizing the use of peyote within the Native American church was withdrawn from the Senate floor. Standards for extending full faith and credit to records and judicial proceedings of any federally-recognized Indian nation, tribe, band or political subdivision were enacted in June 1992. The following legislation was enacted:

H 1976—Requires Native American designs on motor vehicle license plates. Increases from $500 to $50,000 the limit on expenditure of funds without approval of majority of the tourism and recreation commission.

H 2423—Appropriates to various health and human agencies and to the Oklahoma Indian Affairs Commission.

S 871—Affirms the power of the State Supreme Court to issue standards for extending full faith and credit to the records and judicial proceedings of any court of a federally recognized Indian tribe, includes courts of Indian offenses; provides for limitation as court deems appropriate, requires consideration of reciprocity; effective date September 1, 1992.

S 873—Authorizes tribal police officers of an Indian tribe that has entered into a cross-deputization agreement with the state or political subdivision to receive training from the Council on Law Enforcement Education and Training; effective date September 1, 1992.

SR 22—Memorializes the federal executive and legislative branches to transfer 110 acres of land, where the Holy City of the Wichitas is located, from a U.S. Fish and Wildlife Refuge to a Comanche County public trust.

Pennsylvania

Pennsylvania lawmakers considered two bills this session. The bills establish an advisory panel on Indian burials. This panel would have the power to designate a grave site as a Native American burial site and establishes penalties for anyone failing to report an Indian burial ground. The bills also

provide guidelines for reburial of remains or funerary objects.

South Dakota

In the 1992 session, five pieces of legislation were considered. Legislation appropriating $50,000 toward the Indian scholarship program was tabled in committee. The governor vetoed another bill concerning scholarships for American Indians. If a tribe and state could not mutually agree on any resolution, such as gaming, taxation, environmental issues or education, legislation would require the dispute to be submitted to arbitration. This measure was tabled indefinitely. A bill was tabled that established reconciliation processes in the area of Indian gaming. This bill recognizes the efforts of Indian tribes to enhance economic development through gaming and further states that South Dakota is willing to negotiate compact provisions.

Tennessee

The governor signed into law an extension for the termination dates of governmental entities, specifically the Commission on Indian Affairs.

S 1865—Extended the termination date for the Commission on Indian Affairs under sunset laws.

Utah

Three of the six bills and resolutions introduced in the Utah Legislature were signed by the governor:

H 455—Modifies the duties of the Division of Indian Affairs and the duties and membership of the Utah Indian Cooperative Council.

S 91—Revises the functions of the Dineh Committee; establishes a professional trust administrator and defines the administrator's powers and duties; creates a trust fund and establishes its revenue and expenditure parameters; and makes technical corrections.

SCR 11—Urges Congress to remove the state of Utah as trustee of the Navajo Trust Fund, and further urges that the Navajo Nation be made trustee of the funds.

Vermont

Two bills in Vermont did not pass. One proposed to change Columbus Day to Native American Day. The other proposed to recognize the tribal status of the Abenaki people as a matter of state law and to create a commission on Abenaki affairs to negotiate matters of common concern as well as support the Abenaki tribe in obtaining federal recognition.

Virginia

Virginia lawmakers passed both resolutions concerning Native American issues:

HJR 23—Encourages all public school divisions to enhance and emphasize appropriate commemorative and learning activities for Native American week in the curricula and programming for all grade levels.

SJR 15—Requests that the Council on Indians study official recognition of the Cherokee Indian Tribe.

Washington

A measure extending membership in the legislature to federally recognized tribes within the state failed to pass. This bill provided for two delegates from each tribe to serve as nonvoting participants with all other privileges as a member of the legislature. A House memorial failed that would have requested Congress to enact legislation assuring the unacknowledged tribes located in Washington (the Chinook, Cowlitz, Duwamish, Samish, Snohomish, Snoqualmie and Steilacoom) the opportunity to petition the U.S. Department of the Interior for federal acknowledgment in a manner which is clear, unbiased and timely in administrative response. A bill requiring that no agreement between a tribe and the Department of Wildlife be effective until approved by the Wildlife Commission after public hearings also died, as did a bill pertaining to water rights that would allow the state to pursue a cooperative water resource planning and management effort with tribes. The House and Senate passed authorization (Session Law 492) for the governor to execute gaming

compacts on behalf of the state with federally-recognized tribes under the Federal Indian Gaming Regulatory Act. The following legislation was enacted:

S 6004—Reviews Indian gaming compacts; creates a joint legislative committee to review negotiations under the federal Indian Gaming Regulatory Act; provides for the negotiation of tribal-state compacts; provides an opportunity for public comment on any proposed compact.

West Virginia

Two resolutions were introduced asking West Virginia to recognize the Cherokee Indian Tribe of West Virginia as the official Native American Cherokee Indian Tribe of the state of West Virginia. Both resolutions died in committee.

Wisconsin

In 1991-1992 the Wisconsin Legislature gave much attention to Native American issues. Act 39 was signed into law in August of 1991 as part of the governor's budget bill. One section of the bill created a Great Lakes Law Program at the University of Wisconsin at Madison Law School. Another provision allocated money to tribal governing bodies through the Department of Health and Social Services for the funding of drug abuse prevention programs for Native American Indians. The act also authorized the Department of Transportation to use prior convictions of a tribal court to suspend or revoke a person's operating privileges. A final provision provided funds for fisheries and wildlife management. This act also created positions to continue joint research with the 11 tribes and bands in Wisconsin. A Gaming Commission was created in Act 269 to function as an Indian gaming liaison between Native Americans and the populace of the state, an informational clearinghouse of issues concerning Native American gaming as well as assisting the governor in determining types of gaming that may be conducted by Indians. The act also provides funds for a feasibility study of establishing a visitors' center on the history of the Black Hawk War of 1832. Act 320 requires investigations of Indian gaming employees and vendors. The following legislation was enacted in 1992:

A 258 (introduced 03/21/91; approved by Legislature 04/28/92; line-item vetoed by governor)—Relates to business development on Indian reservations, provides for a study and makes appropriations.

A 4 d—Relates to background investigations of Indian gaming employees and vendors.

A 6 d—Restricts gambling conducted by the state to the forms of gambling that the state is currently conducting, creates a Council on Charitable Gaming and specifies the forms of gambling that may be conducted by Indians on tribal lands.

Wyoming

One bill requiring Wyoming courts to grant full faith and credit to tribal acts, judgments and records failed to pass, as did a bill that would have allowed the governor or his representative to negotiate a tribal-state compact pursuant to the federal Indian Gaming Regulatory Act of 1988. The following legislation was enacted:

H 2—Appropriates money, including appropriations for Native Americans, from various funds for the 1993-1994 biennium.

S 100—Provides an appropriation from the mineral severance protest account within the trust and agency fund for the alleviation of specified conditions on the Wind River Indian Reservation; imposes conditions upon the expenditure of appropriated funds.

References

Pommersheim, Frank. "Tribal-State Relations: Hope for the Future?" *South Dakota Law Review* 36, no. 2 (1990).

Copies of all legislation discussed in this report are available upon request from Jim Reed or Judy Zelio at the National Conference of State Legislatures.